

CHAPTER 5. LAW AND ORDER OPERATIONS

Successful law and order operations are important to maintaining combat readiness and efficiency. While conducting law and order operations, military police enforce laws, directives, and regulations; conduct criminal and traffic accident investigations; and control populations and resources to provide commanders a lawful and orderly environment. Military police also coordinate actions to remove conditions promoting crime and reduce opportunities allowing crime. Key to the success of these operations is the military police's ability to operate with restraint and authority, probable cause, and minimum use of force.

Military police conduct law and order operation function within their jurisdiction and authority. While military police may have the authority to apprehend a suspect, the military may not have jurisdiction to adjudicate charges. The concept of jurisdiction discussed in this chapter refers to the authority of military police to apprehend military personnel and to detain civilians.

Authority

Authority is the lawful right of designated persons or agencies to exercise governmental power or control. The military police's authority to enforce military law, orders, and regulations, by apprehension or detention if necessary, is derived primarily from the President of the United States, as Commander in Chief of the Armed Forces, and the *Uniform Code of Military Justice* (UCMJ).

The UCMJ specifies the types of persons that are subject to the provisions and articles of the UCMJ. In the continental United States (CONUS), the authority of the military police over persons other than those subject to the UCMJ is derived from Federal law and the policies and orders of the military commander.

Outside CONUS, MP authority is founded in the laws of the country concerned, the status-of-forces agreement (SOFA), and the UCMJ. Normally, the SOFA authorizes one government to take action in cases where both governments could take action. In the absence of an international agreement or SOFA, U.S. Military Forces are subject to the UCMJ and the laws of the nation in which stationed.

Persons Subject to Uniform Code of Military Justice

The UCMJ, as established by Congress, provides one basic code of military justice and law for Military Services. The code authorizes the President of the United States to set rules of evidence; pretrial, trial, and post-trial procedures; and maximum punishments for violations of the UCMJ. Under this authority, the President issued the *Manual for Courts-Martial* (MCM). A primary source document for matters relating to military justice, the MCM is an executive order implementing the provisions of the UCMJ. The MCM establishes the military law of evidence.

Active duty military personnel, as well as some retired members and other personnel enumerated in Article 2 of the UCMJ, are subject to the provisions of the UCMJ. Military police have authority to take appropriate action with persons subject to the UCMJ. This authority is not limited to military reservations or Federal property.

Persons Not Subject to Uniform Code of Military Justice

Commanders and military police are advised to consult the local staff judge advocate (SJA) concerning the circumstances warranting detention of persons not subject to the UCMJ. In areas under military jurisdiction or control, military police may take into custody and detain the following persons who are not in the military services or subject to UCMJ:

- 1 Persons found committing a felony or a misdemeanor may be detained long enough to be turned over to civil authorities.
- 1 Persons found violating properly promulgated military regulations.
- 1 Persons cited for violating the Assimilated Crimes Act, not including felonies or breaches of the peace, may be referred to a U.S. magistrate.
- 1 Civilians may be subject to military authority in situations involving martial law or hostilities.

Persons Subject to Posse Comitatus Act

Within CONUS, MP authority does not extend to civilians outside areas under military jurisdiction or control. While the Posse Comitatus Act prohibits the

use of the military and military police for enforcement of Federal, state, county, or local civilian law, other operations are not prohibited. These operations include—

- 1 Federal military forces employed to quell a civil disturbance, to protect Federal functions and property, or to act in an emergency.
- 1 Acts having a primary military purpose and only incidentally enforcing civilian law.
- 1 Military assistance to protect public safety.
- 1 Development and maintenance of effective working relationships between military police and their civilian counterparts and the loan of certain types of equipment to civilian authorities.
- 1 Investigation of offenses committed by civilians if there is a military interest. (The SJA should be consulted on a case-by-case basis to determine whether a specific investigation should be conducted.)

Jurisdiction

Military jurisdiction is the extent of and limitation on the right of an armed force to exercise authority and control over persons and offenses. Jurisdiction limits the exercise of authority. The jurisdiction of every offense or incident depends on the status of the suspect, international agreements and treaties, military interest in the offense, and other factors. Military jurisdiction is exercised through the application of military law, orders, and regulations. Military jurisdiction extends to military personnel whether or not they are in an area under military control. The military has exclusive jurisdiction to try persons subject to the UCMJ. Civil jurisdiction is exercised through the application of state and Federal law.

Under international law, the HN normally has primary jurisdiction to prosecute nonmilitary offenses committed within its borders by members of a visiting force. This authority may be further defined or surrendered to military authorities through SOFAs and other treaties or agreements depending on the nature and circumstances of the offense. This limitation to prosecute does not prohibit commanders from taking administrative action against suspects. The SJA should be consulted when questions exist about jurisdiction. While conducting law and order operations military police operate under exclusive, concurrent, and proprietary jurisdictions.

Exclusive Jurisdiction

Under exclusive jurisdiction, the Federal Government assumes sole jurisdiction over the designated area. Many military installations have exclusive Federal jurisdiction. On these installations, the Federal Government exercises executive, legislative, and judicial authority. To facilitate exclusive jurisdiction and to avoid the difficult task of enacting and maintaining a code of criminal laws appropriate for areas under its jurisdiction, Congress passed Title 18, Assimilated Crimes Act, *United States Code*, Section 13. This statute provides that all acts or omissions occurring in an area under Federal jurisdiction, which would constitute crimes if the area were under the state jurisdiction, will constitute similar crimes, similarly punishable, under Federal law. This act does not assimilate crimes based on state statutes that are contrary to Federal policy and law, such as civil rights legislation, nor does it assimilate state law if there is an existing Federal statute or law on the subject.

Concurrent Jurisdiction

Concurrent jurisdiction exists when the Federal Government and the state or local government exercise simultaneous authority over an area. Essentially, this type of jurisdiction is dual jurisdiction. Under concurrent jurisdiction, state criminal laws are applicable in the area and can be enforced by the state as well as the Federal Government under the Assimilated Crimes Act.

Proprietary Jurisdiction

Proprietary jurisdiction applies in instances where the Federal Government has ownership to an area but has not retained jurisdiction. In this case, the Federal Government has the same rights as any other landowner. The state retains jurisdiction over the area and has the authority to enforce laws in the area. The Assimilated Crimes Act does not apply to areas of Federal proprietary jurisdiction. In such areas, military police exercise authority in compliance with the instructions of the appropriate commander.

Command and Control

Military police conduct law and order operations when the commander requires it and when battle intensity permits. During intense combat operations, the

commander normally needs military police to expedite the movement of supplies and resources and to conduct MMSO and area security operations. Typically, military police conduct full-scale, dedicated law and order operations after the AO has matured. The commander determines when MP assets are needed and can be afforded for dedicated law and order operations. In a peacetime environment, military police conduct extensive law and order operations.

Military police performing law and order operations enhance the commander's combat readiness, efficiency, and command and control by—

- ┆ Preventing the diversion of military resources, thereby, aiding in the maintenance of combat strength.
- ┆ Suppressing opportunities for criminal behavior.
- ┆ Assisting and protecting forces.
- ┆ Preserving good order and discipline.
- ┆ Assisting intelligence organizations in obtaining a complete tactical intelligence picture by collecting and providing criminal and operational data and information.
- ┆ Providing liaison to civil or military law enforcement agencies.

Law and Order Functions

Law and order operations are often conducted simultaneously with other MP missions. Military police implement and perform physical security measures for designated critical assets as part of area security operations. They regulate traffic and investigate accidents as a part of the MMSO mission. Crime prevention measures and selective enforcement measures are also performed as part of other missions.

Crime is detrimental to MAGTF operations and can cause a severe deterioration in morale. Military police assist the commander in curtailing and eliminating criminal activities by enforcing law and order and preserving good order and discipline. Based on the MAGTF commander's concept of operation, military police employ the following law and order functions:

- ┆ Law enforcement.
- ┆ Military working dog operations.
- ┆ Traffic enforcement and investigations.

- ┆ Criminal investigations.
- ┆ Crime prevention and physical security.
- ┆ Customs support operations.
- ┆ Information operations.
- ┆ Joint, combined, and HN operations.

Law Enforcement

An efficient and effective law enforcement effort eliminates the conditions and opportunities that promote crime. Successful law enforcement operations maintain combat readiness and efficiency by preventing the diversion of personnel and resources to fight crime and by maintaining military discipline. Marine Corps Order (MCO) P5580.2, *Marine Corps Law Enforcement Manual*, provides specific guidance on the establishment of law enforcement operations.

Patrol Operations

The key to an effective law enforcement effort is an aggressive MP patrol operation. The method of MP patrol depends on the mission, number of military police available, terrain, time of response, and level of HN support. Military police establish patrols to—

- ┆ Meet prescribed objectives.
- ┆ Protect designated resources.
- ┆ Identify and apprehend or detain offenders.

Desk Operations

Military police establish desk operations to—

- ┆ Coordinate and document MP patrol activity.
- ┆ Receive complaints and calls for assistance.
- ┆ Refer incidents to the appropriate investigative agency for further action.

Military Working Dog Operations

Military working dog (MWD) teams enhance the effectiveness of law enforcement operations with capabilities to detect explosive devices and residue, controlled substances, and to detect, track, control and apprehend personnel. They are used in peacetime environments to extend MP resources and contribute to the detection, investigation, and prevention of criminal activity. The MWD teams support a variety of MP operations, which are discussed in appendix E.

Mission support requirements determine the number of functional MWD teams that make up a wartime

mission-oriented MWD team. On the battlefield MWD teams—

- ┆ Help deter and detect the enemy.
- ┆ Support force protection operations by augmenting security forces and assisting in the protection of key personnel.
- ┆ Support population control by augmenting dislocated civilian and crowd control forces.
- ┆ Assist in temporary internment operations.

Traffic Enforcement and Accident Investigations

Traffic accidents account for a large number of deployed military casualties. Military police help to reduce the number of nonbattle traffic accident casualties and loss of equipment through enforcement of HN and command traffic regulations. Accident investigators assist HN or other authorities investigate those accidents involving U.S. personnel or property. Traffic enforcement reduces the military traffic threat to the HN population.

Types of Accidents Investigated

Providing they do not interfere with the tactical mission or mission-essential operations, the types of accidents military police investigate include those—

- ┆ Resulting in the fatalities of U.S. military personnel.
- ┆ Involving U.S. military personnel and equipment as well as HN persons and/or property.
- ┆ Involving substantial vehicle damage and/or multiple vehicles.

Investigative Services

Through the investigation of traffic accidents, military police serve to—

- ┆ Identify the personal, environmental, and equipment factors that caused or contributed to the accident.
- ┆ Document the facts of the incident for criminal or civil actions that may result from the accident.
- ┆ Expedite HN litigation.

Traffic Enforcement Measures

Based on the operational and political environment, traffic enforcement measures may include—

- ┆ Development of the traffic circulation plan.

- ┆ Operator license and dispatch checks.
- ┆ Safety inspection checkpoints.
- ┆ Enforcement of vehicle load and route restrictions.
- ┆ Speed control measures.

Criminal Investigations

Crimes occurring within an AO may require an indepth investigation. Military police investigate offenses committed against U.S. personnel or property. There are two types of criminal investigations on the battlefield. Minor crimes are usually investigated by MPIs. Major incidents and serious offenses, especially those involving death, serious bodily injury, and war crimes, are referred to the MP criminal investigation division. The CID investigative authority originates from the provost marshal or from the commander to whom the CID element is attached.

During peacetime, the Department of the Navy, NCIS, is primarily responsible for the investigation of major criminal offenses committed against persons, the U.S. Government or its property, and certain classes of private property.

During combat and contingency operations, CID investigators provide criminal investigative support to commanders. The CID personnel are authorized to initiate appropriate criminal investigations during these operations.

Commanders are prohibited from interfering with the investigations or impeding the use of investigative techniques. When a commander objects to the opening of a criminal investigation for operational or other reasons, that commander must report the circumstances immediately via the chain of command to the Commandant of the Marine Corps (CMC) (POS). Only the Secretary of the Navy or CMC may direct Marine Corps CID to delay, suspend, or terminate an investigation.

Alleged War Crime Investigations

Upon receiving information concerning alleged war crimes committed by Marines, commanders must immediately notify the nearest CID field office. It is extremely important that alleged war crimes be investigated promptly by CID and not by an investigating officer appointed by the command. Close coordination between the SJA and CID during war crime investigations is essential.

Joint Activities

Joint investigative activities, such as drug or black-market suppression teams, may involve investigators from NCIS, CID, MPI, or other U.S. Services or agencies. Such operations may require close liaison and cooperation with HN or allied civil or military agencies. The CID investigators also work closely with counterintelligence teams, pooling their resources to gather information on underground activities, terrorist groups, black-marketing, etc. In addition, CID investigators are trained to handle hostage incidents, hostage negotiations, and related terrorist incidents.

Crime Prevention and Physical Security

The objective of crime prevention is to provide a secure environment for military personnel to operate. Crime prevention employs proactive measures aimed at protecting persons and property. A successful crime prevention effort focuses on the number, type, location, and causes of crimes being committed. After causes are identified, military police employ preventive techniques by planning, implementing, evaluating, modifying, and developing new crime prevention measures.

A strong physical security program supports the crime prevention effort by helping to identify, reduce, eliminate, or neutralize conditions favorable to criminal activity. As part of the overall crime prevention effort, military police conduct physical security inspections and surveys of designated mission-essential or vulnerable activities within a command. Physical security inspections and surveys also identify measures to reduce the opportunity, and desire, for engaging in criminal acts.

Crime prevention is accomplished through a heightened degree of awareness. Units aware of the detrimental effects of criminal activities often police themselves to maintain unit integrity and morale. Military police provide the commander with awareness programs, as well as instruction and information on recognizing, countering, and preventing criminal activities. Crime prevention and physical security are discussed further in appendix D.

Customs Support Operations

Customs support is a requirement when U.S. personnel return to CTUS. Military police provide customs support to ensure units and individuals comply with U.S. Customs, other governmental agencies, and U.S. Department of Agriculture (USDA)

requirements. In the absence of U.S. Customs personnel, customs-certified military police, often aided by MWD teams, conduct military customs inspections to enforce U.S. customs laws and regulations. Customs support operations are discussed further in appendix A.

Border Control

While conducting customs support operations, military police may be required to establish and operate or assist HN authorities in supervising crossing points at international borders. Border control is maintained for—

- ┆ Security.
- ┆ Customs and tariff enforcement.
- ┆ Protection of the civilian economy.
- ┆ Apprehension of criminals, absentees, and persons of intelligence interest.

Functions

Control is maintained through the establishment of authorized road or rail crossing points, border patrols, and control posts. Essential to success of these operations is constant liaison with HN and neighboring country authorities. Military police conducting these operations—

- ┆ Establish the identity of U.S. military members crossing borders, determine the purpose of travel, and examine vehicles and travel documents.
- ┆ Instruct U.S. military members to make oral or written customs declarations as required.
- ┆ Conduct searches of vehicles, luggage, and any other property being imported or exported by U.S. military personnel.
- ┆ Seize contraband items that are in violation of customs regulations.

Information Operations

Success in MP law and order operations relies on the use of essential information and intelligence, which aid in the crime prevention and criminal investigation process. Military police collect, analyze, and disseminate information and intelligence as part of other missions. Force dispersion and the growing criminal threat will result in greater reliance on MP-gathered information.

The MP information operations complement the command intelligence program by integrating information with military intelligence and by

contributing to IPB, providing the commander a complete and relevant intelligence picture for military operations.

Joint, Combined, and Host Nation Police Operations

The MP law and order operations may involve patrols with joint, combined, and HN military or civilian police, or a combination of these options. The SOFA, rules of engagement (ROE), rules of interaction, and

other guidance serve as the basis for MP law and order activities. When conducting these activities, military police must maintain constant liaison with other DOD police organizations and with HN authorities and allied police agencies to develop employment options which best support MAGTF operations. As part of these operations, military police may, in situations where the local national authority has deteriorated or been eliminated, provide initial assistance and training to HN military and civilian police forces or assist in the creation of these forces.